1 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF KENTUCKY LEXINGTON DIVISION 2 CIVIL ACTION NO. 5:09-CV-00244-KSF 3 4 DEPOSITION OF KEITH MacADAM, Ph.D. 5 6 C. MARTIN GASKELL PLAINTIFF 7 v. 8 UNIVERSITY OF KENTUCKY DEFENDANT 9 10 The deposition of KEITH MacADAM, Ph.D., was 11 taken on behalf of the plaintiff before Ann Hutchison, 12 13 Registered Professional Reporter and Notary Public in 14 and for the Commonwealth of Kentucky at Large, at the 15 law office of Baker, Kriz, Jenkins, Prewitt & Jones, 16 PSC, 200 West Vine Street, Suite 710, Lexington, 17 Kentucky, on Wednesday, March 31, 2010, beginning at the 18 hour of 11:38 a.m. The deposition was taken by notice 19 and shall be used for any and all purposes allowed by 20 the Federal Rules of Civil Procedure, including use at 21 trial. 22 23 ACTION COURT REPORTERS 24 184 North Mill Street Lexington, Kentucky 40507 25 (859) 252-4004

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7		EXHIBITS	
8	NO.	DESCRIPTION IDENTIFI	ΕD
9		9/24/07 e-mail to the committee from Dr. Troland	25
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1 KETIH MacADAM 2 having been first duly placed under oath, was examined 3 and testified as follows: 4 **EXAMINATION** 5 BY MR. MANION: 6 Q. And for the record, you are Keith MacAdam? 7 Α. That's right. 8 Ο. And it's M-a-c -- is it capital A? 9 Capital A. Α. Capital A, d-a-m? 10 Q. 11 Yes. Α. 12 All right. Dr. MacAdam, my name is Frank Q. 13 Manion. I'm one of the attorneys for Martin Gaskell in 14 this lawsuit. We've asked you to be here today for the purpose of taking your deposition. Have you ever been 15 16 to a deposition before? 17 Α. No. 18 All right. Let me briefly try to explain 0. 19 what's going on. This is testimony that you're giving 20 under oath in this case. All of your answers are being 21 taken down by the court reporter. Anything I say, 22 anything Barbara Kriz says is being taken down also. 23 You've obviously sworn an oath to tell the truth. 24 the same oath that you would take if you were testifying 25 in a court of law, and it has the same binding and legal

1 effect as the oath in court does. All of my questions, 2 all your answers, all of Ms. Kriz's objections -- should 3 there be any -- and any of her questions as well, are 4 going to be put in a transcript form which can be used 5 by either side in the course of this lawsuit. If at any 6 time I ask you a question that you don't understand, or 7 if I should happen to speak too fast or not allow you to 8 finish an answer, please call a timeout, ask me to 9 rephrase the question or slow down so that you're only 10 answering things that you understand before you give 11 your answer. Is that clear? 12 Α. That's clear. 13 If you and I were having a conversation, Ο. we could talk over each other, but that makes life 14 15 difficult, if not miserable, for the court reporter. 16 You can't use inaudible -- you can't use gestures, you 17 can't shrug your shoulders, shake your head. (Witness gesturing.) 18 19 0. You can do that. We might want to do that 20 at various times in this deposition but unless an 21 attorney says let the record reflect that Dr. MacAdam 22 just gave the attorney the Bronx cheer, it doesn't show 23 up. Anyway, you have to -- we have to speak in words, 24 obviously. And you can't say uh or huh-uh or huh-uh. Okay. You have any questions about the deposition 25

1 procedure? 2 No. I think we're all set. Α. 3 Q. All right. Your current employment is what? 4 5 I am emeritus professor of physics at the 6 University of Kentucky in the Department of Physics & 7 Astronomy. Emeritus meaning that I officially retired, 8 which was in the end of the spring semester in 2008. 9 How long were you a professor at the University of Kentucky? 10 From the fall semester of '77 to the 11 Α. 12 spring semester of '08, so that makes 31 years. 13 As you know, this case involves the hiring Q. 14 process for the position of observatory director, in 15 fact, the MacAdam Observatory. You were involved at 16 some level in the process of choosing a director for the 17 observatory. Correct? 18 Α. Yes. I was a member of the committee. 19 0. How did you get to be a member of the 20 committee? 21 I had been the chair of the department Α. 22 from '97 to '01, and during that time I initiated 23 efforts, which during that period were not successful, to establish an observatory. Although astronomy is not 24 25 my specialty -- my specialty being experimental atomic

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1
    physics, I'm a physicist more broadly, and astronomy is
2
    included in our physics department, and so from
    longstanding I had an interest for pedagogical as well
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    as scientific reasons in the establishment of an
 4
5
    observatory. So I was asked by the current department
 6
    chair to serve on the selection committee for the
7
    director of the observatory once we had, in fact, gotten
8
    it physically established and financially established
9
    through the College of Arts and Sciences.
10
           0.
                  At the time that the search process was
11
    going on for the director, was the observatory already
12
    in place?
13
                  Yes, it was. It had been built during the
14
    summer and up until about September, I think -- I'm not
15
    exactly sure of the months, but it was about September
16
    of '07 that we had a physical structure and a telescope
    in place.
17
18
                  Okav.
                         When was it open for use by anyone?
           Ο.
19
           Α.
                  I think the first actual use was in
20
    February of '08.
21
                  Were you involved in the design of the
           Q.
22
    observatory, the physical observatory itself?
23
           Α.
                  Yes, I was.
24
           Q.
                  And to what extent? Were you the
25
    supervisor? Were you just part of a team?
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- A. Certainly not the supervisor. We had a committee. I don't know if we had an official name, but something like an observatory steering or planning committee, and I made a number of suggestions which were reflected in -- ultimately in the design of the observatory, not only in its physical structure but in its programs and operation.

 Q. Do you know why the -- why does the observatory bear your name? I assume it's you.

 A. It is me, although I specifically said that it should not be the Keith B. MacAdam Observatory, but just MacAdam. And it bears my name because I was
 - that it should not be the Keith B. MacAdam Observatory, but just MacAdam. And it bears my name because I was honored by the chair and the dean of the college in recognition of what I had done from the beginning to see that the University of Kentucky had a student observatory.
 - Q. Now, in your role as part of the search committee for the observatory directorship, what did you do? Were there meetings? Were there documents? Just generally what did that involve?
 - A. We met periodically in the chair's office, that is the department chair, Mike Cavagnero, around a table of this nature. There were, I think, five or six of us minus people who perhaps couldn't attend a particular meeting. And as it led up to the process of

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finding and selecting a director, we talked about what the purpose of the observatory was and what the mission of a director would be and what the status of that person would be in the department. For instance, at the university and in a department such as ours, we have a variety of levels of people. We have tenured or tenuretrack faculty who are expected to do teaching, research, and service. We have staff who are not faculty, and some of those staff are technical staff and some of those staff are administrative or office staff, and staff are supervised in various ways depending on the jobs that they carry out. And one of the persistent problems, not just in our department but elsewhere through the campus, is the relationship of faculty and staff. So these are all -- these were all things that were on the table before we came to actually writing the job advertisement and considering the applications that came in. How many meetings, all told, were there of Ο. the search committee? Formal meetings. Α. I can't exactly remember. I would say six to ten. Q. Did you attend all of them as far as you know? Α. Not all, but almost all. I was almost

1 always present. 2 Prior to the beginning of the search Q. process in 2007, you were acquainted with Martin 3 Gaskell. Correct? 4 5 I had met him, and with Mike Cavagnero, Α. 6 whose specialty is also atomic physics, we had actually 7 visited his observatory at the University of Nebraska. 8 Ο. Right. 9 Even before that, one of my colleagues had 10 mentioned that UNL had such an observatory built on the top of a parking structure. One of our first issues, in 11 12 fact, was where and how to site an observatory, and this 13 was held as a suitable example. So when Cavagnero and I 14 happened to be in Lincoln for a physics conference, we 15 took the opportunity to contact Gaskell, which was the 16 first time I had met him, and visit his observatory. 17 0. And so you went and actually visited his 18 observatory? 19 Α. Yes. 20 Was he there? Q. 21 Α. He was there, yes. 22 He show you around? Q. 23 He showed us. Α. 24 How much time did you spend with him that Q. 25 day?

1 Α. I would say about an hour. Any subsequent conversations with him up 2 Q. to when he came to U.K. for this job --3 4 No. I wasn't personally acquainted and 5 had no, as far as I can recollect, no communications of 6 any sort with him. 7 Q. I know you were working at the university 8 at the time. Do you recall -- do you have any 9 recollection of the time in 1997 when Gaskell visited 10 the U.K. campus and gave a talk, a lecture? I think I heard about it at the time. 11 Α. Ιt 12 was not a lecture given in the physics department and 13 was not pitched as particularly a physics department 14 activity, and I didn't attend. 15 0. All right. My next question. Did you hear about -- anything about the lecture after it 16 17 happened? 18 No, I didn't. It happened I didn't attend 19 and it wasn't significant to me. I do make an effort to 20 attend all of the department colloquia and some of the 21 disciplinary seminars that are held in our department, 22 but this one didn't seem to be of particular interest, 23 and I made no effort before or after. 24 Q. Okay. Prior to the -- or at the time of 25 the observatory director application process, did you

know Tim Knauer? 1 2 Yes, I knew Tim. Α. How did you know Tim? 3 Q. 4 He had worked in the physics department 5 and actually taken classes toward a master's degree in 6 physics and was even one of my students in an optics 7 laboratory. He had been in the department as a student 8 and as a lecture demonstrator for, I'm not sure, several 9 years, and then he had left and I had lost track of him. 10 Ο. There's been a lot of what we call discovery that's gone on in this case up till now, and 11 12 so rather than painstakingly take you through every 13 step, it would appear, I think, to be undisputed that eventually the competition, if you want to call it that, 14 15 for the job of director came down to two, perhaps three, 16 individuals. Does that sound right to you? I would say three individuals. 17 Α. Yes. 18 0. And I believe that they were Gaskell, 19 Knauer, and was it Sykes? 20 Α. Sykes. 21 Q. All right. You, as we understand from 22 records that we've reviewed, ultimately voted that a 23 recommendation be made that Knauer be offered the 24 position. Correct? Α. 25 Yes.

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Q. And what was your basis for choosing Knauer over Gaskell specifically? This is a broad question. I thought he best fit my personal and our collective sense of what was needed as a director to found and establish and operate this student observatory. There's many parameters that figure in that, but I was convinced in the end that he was the best one for our job. Q. Had he ever run a student observatory anywhere? Α. No. 13 Q. Gaskell had. Right? Gaskell had, of course. Α. In terms of -- one of the words we've seen Ο. 16 a lot of in this case is "outreach." Α. Yes. Outreach was a component of the job that 0. you were hiring someone for. Correct? Α. Right. Q. How significant a component was it as far as you were concerned? 23 Α. Very significant. I would say that half of the purpose of this was to serve the campus and the 25 other half was to serve in an outreach capacity.

1 Outreach would include the general public, the 2 population of our schools in Fayette County and 3 neighboring counties, and even the more general campus 4 population of people who were not our students, would 5 not be taking science classes, who were not even 6 students at all. So outreach was significant in that 7 equal manner to the more specifically pedagogical 8 purposes. 9 Were you familiar with Gaskell's 10 experience in outreach while at the University of 11 Nebraska? 12 Α. Through the -- through his application 13 materials and through the conversation that we had with him when we visited -- when Cavagnero and I visited. 14 15 Ο. And how did his outreach experience 16 compare with Tim Knauer's at that time? 17 As I recall, Gaskell had not done any programs with the schools, nor had Knauer. He had 18 19 opened the observatory and had lots of people come, and 20 they had set up telescopes, which was a good idea that 21 we wished to emulate. So that when a crowd was there 22 people could not only come in to the dome and look 23 through the main telescope but could look through 24 smaller telescopes that were arrayed outside on the top

deck. As far as I know, that was the only sense in

which Gaskell had done outreach. These people were
just -- who just came as part of general knowledge or
publicity, such as in the newspaper or something like
that, and he was there and he received them.

Q. Okay. That's your understanding of, in
general terms, the extent of his outreach experience.

eneral cerms, the extent of his

Correct.

Α.

- Q. When you were reviewing the applications of the various candidates -- and let's narrow it down to three -- what physically did you review, what writings?

 And I know you don't have them in front of you, but as best you recall.
 - A. Well, of course, there was a cover letter of application, there was an official sort of a vitae, and there were communications which might have been e-mails or other things that -- between the candidates, Sykes, Knauer and Gaskell -- and whom? I don't know.
 - Q. Okay. Possibly Cavagnero?
- A. Cavagnero would be my first guess because he would represent us all.
 - Q. Right.
 - A. It's possible that there were other one-on-one interchanges through e-mail, most likely through e-mail, where various issues were -- questions were asked and answered about how does your observatory

1 operator, what do you do in this case or what's your 2 idea about this. Q. In the course of the search process, 4 whether at committee meetings or outside of committee 5 meetings, do you ever recall going to Gaskell's 6 University of Nebraska Lincoln web page? 7 Α. I did once. 8 Ο. And why did you do that? 9 I hadn't known anything about it, but one 10 of the members of the committee, and I'm not sure which one, pointed out that it existed, and so I looked it up. 11 12 And I didn't look at it extensively. I looked at two or 13 three screens of it. 14 0. At some point in this search process was 15 an issue raised by one or more members of the committee 16 regarding Gaskell's -- the content of his website or the 17 links from his websites to other pages? 18 Ouestions were raised because the website 19 included discussions of things that were not astronomy 20 but were the relationship of astronomy to biblical 21 issues. 22 Who raised the questions? Ο. 23 I really don't know. It could have been Α. 24 Sally Kovash -- I'm sorry, Sally Shafer. I've known her

so long that I sometimes get her name confused.

25

Or Tom

1 Troland. Who were the other members of the committee? 2 Ellis? Q. 3 Ellis, I don't think that he raised any issue like that. 4 5 Ο. Shlosman? Shlosman, I don't believe, raised any 6 Α. 7 issue. Cavagnero may have, but it could have been just 8 been by way of summarizing discussion, things that had 9 come up at the table. I don't think he initiated any 10 particular attention to that. How many times do you recall that question 11 Q. 12 of Gaskell's astronomy and biblical issue, I think is 13 the way you described it, how many times was that 14 discussed at the committee meetings? 15 Α. Maybe twice. 16 And what was the content of the discussion Q. 17 as far as you can recall? Who said what? 18 Let's see. Someone raised concern that 19 Gaskell's role as director of our observatory, if he 20 were selected, could become confused with his role --21 his views of religious things in relation to reconciling 22 what is known scientifically about how the world 23 developed and what is represented in the Bible. And we 24 all know here that evolution is a hot topic. It's been 25 one at least since the Scopes trials, which Scopes, you

1 may know, is a graduate of what? U.K.? 2 In fact, my father, who was a physicist, told me that one of the most influential things in his 3 4 young life was the Scopes trials, deciding him to become 5 a scientist. In any case, it's a hot topic. The creation museum has just been built at 6 7 great expense and is often in the news, and we've even 8 seen pictures of people standing next to dinosaurs; that 9 is, models of people standing next to models of 10 dinosaurs, as if they co-existed. We know it's a hot 11 topic. It's a topic that doesn't have anything to do 12 with astronomy, with the observatory, with science 13 education, at least as we in the Department of Physics & 14 Astronomy in the College of Arts and Sciences and, I 15 would dare say, the University of Kentucky as a whole 16 wish to present it. 17 We're starting out a new observatory. 18 haven't had an observatory at the university for 40, 19 50 years. Astronomy is an exciting new area. It's in 20 the newspapers. It fascinates people who don't have any 21 other science interests or connections. We see it as a 22 marvelous way to grab the attention of young people and 23 the general public to science. 24 And so Gaskell's positions and his 25 involvement and evidently his enthusiasm creating

1 lengthy web pages and so on, in my mind, or I would say 2 in our mind, threatened to confuse the establishment of 3 the observatory and the role that we wanted it to play 4 in the university and in the community. It was a 5 confusion. 6 Q. Did you read his web page? 7 I read, as I say, about two or three 8 screens. I didn't study it. I skimmed two or three 9 screens, that's all. 10 Q. So you didn't read the paper where he says 11 that he fully accepts all modern theories of biological 12 evolution? 13 No, I didn't. Α. 14 Ο. It was just the fact that there was --15 someone raised an issue about Gaskell in relation to 16 evolution that you feared would cause confusion in the opening of this observatory? 17 It's more than that, I think, because if 18 19 you read things that are written by scientists, and I'll 20 say more specifically by physicists or astronomers or 21

say more specifically by physicists or astronomers or biologists, they don't talk about things as portrayed in the Bible or in Native American mythologies or in Norse mythologies or any other traditions, cultural traditions

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Q. Do they never talk about those other

or religious traditions. They talk about science.

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    things?
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           A. Oh, perhaps in the context of cultural
    studies, sure.
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                  Are you familiar with Francis Collins, the
5
    head of the NIH?
 6
           Α.
                  No, I don't know Francis Collins.
7
           Q.
                  How about Kenneth Miller, who lectured
8
    here last fall as part of the Bale Boone lecture series?
9
                  No, I didn't.
           Α.
10
           Q.
                  So I assume you're not familiar with his
    book, Finding Darwin's God?
11
12
           Α.
                  No. Actually, I'm not personally very
13
    interested in those things. There's a limit to what I
    can cover myself, although I'm very interested in
14
15
    certain matters of history and culture and even I would
16
    say Norse mythology and so on. I'm an avid reader of
17
    Icelandic sagas. I don't spend any of my quality time
18
    thinking about the kinds of things that you raised.
19
           Ο.
                  Okay. So was it this concern, this
20
    question that was raised by somebody about Gaskell's
21
    website, was that a factor in your decision as to who to
22
    vote for for the position?
23
                  It was a factor, but it was not the only
24
    factor.
25
                  What were the other factors?
           Q.
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A. For instance, we -- I mentioned earlier the long-standing problem about faculty and staff, the relationship, and the fact that staff are supervised by a complex structure depending on the various job roles and so on. Gaskell clearly wanted to carry out research. We knew that because he had been doing that. I can't remember whether he specifically described what research he wanted to carry out, but he did say when asked that he wanted to spend about a third of his time doing research.

- Q. Who did he say that to; do you recall?
- 12 A. I don't know. I suppose -- well, he
 13 didn't say it to me. I suppose he said it to Cavagnero.
 - Q. Okay.

- A. But the record also showed that he had applied for and received funding from federal agencies -- I don't remember whether NASA or NSF or others -- had carried out research based on those grants, had published papers and was very interested in using the observatory at Nebraska to carry out research. And he expressed an interest in doing the same here. We preferred to have a person who was not going to carry out research, especially his own personal research.
 - Q. Right.
- 25 A. At most, we would want as one part of the

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    person's activity to supervise the -- I won't even call
2
    it research, quite, the projects, the senior level or
 3
    Capstone projects that our physics majors -- we don't
4
    have any astronomy majors at the undergraduate level --
    would carry out. But the idea that our director would
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 6
    be spending a significant amount of time -- and
7
    one-third is certainly significant -- carrying out
8
    astronomy research instead of putting his efforts in to
9
    the student-oriented and outreach-oriented aspects gave
10
    us pause.
               That was one reason.
11
           Q.
                  Others that you can recall?
12
           Α.
                  He had an attitude that was not as
13
    appealing as Knauer.
14
           0.
                  In what sense?
15
                  He acted as though he thought the job was
           Α.
16
    his.
17
           Q.
                  What did he do that --
18
                   I can't quote any specific thing.
           Α.
19
    just a general --
20
                   Impression?
           Q.
21
           Α.
                   Impression, yes. He apparently -- I have
22
    this only by hearsay -- did not appeal as well to the
23
    graduate assistants who were going to be involved in
24
    actually being the boots on the ground to carry out the
25
    student-oriented parts. And on the other hand, Knauer
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seemed very appealing. He was appealing to us in terms of his creativity, the ideas that he had and expressed to us for couldn't we do this, couldn't we do that. all proposals are feasible, but here's somebody who is clearly overflowing with ideas. MR. MANION: Make the gesture of overflowing. Α. Yes. Q. Okay. Other? Α. And so it was the enthusiasm and the creativity that we saw, and I would even say the humility that we saw. He knew that he was not a professional astronomer, but he was an enthusiast, and we thought that that was a better basis for encouraging the enthusiasm of other people like himself and our students and the public than Gaskell who clearly was focused on carrying out technical projects with a campus-based observatory. That wasn't the role that we wanted. We have astronomers. They do research. know that most cutting-edge research in astronomy and astrophysics cannot be done on a half meter telescope in an urban environment. Our astronomers go to Hawaii or South America or the Canary Islands or West Virginia to Green Bank. We're a department of physics and astronomy, so we all know how astronomy research is

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carried out. That aspect is already taken care of. What we want is someone to direct a student-oriented, an outreach-oriented observatory and Knauer was clearly in our minds the better fit. Even though Gaskell had actually been Q. doing that for many years prior to this. Right? Α. Yes, that's right. And Knauer had never done that. Ο. We knew that, yes. It helped, of course, Α. that we knew Knauer from before. Q. Right. So when I'm saying he appealed to us, I'm Α. telling about what we already knew about his personality, his ability to get along with the rest of us, and to work with students. So what we had on paper and during the formal interview process was only part of what we knew about the fact that he would be a good fit in this role we envisioned. When had he last worked at U.K.? Ο. I don't know, but I'm sure the record Α. shows. It had been a number of years that he was Ο. out in private industry. Right? Α. Yes. And when he had previously worked at U.K., Q.

it was in what role? 1 2 He had been the lecture demonstrator; that Α. 3 is, he assisted people giving the large lectures in 4 introductory physics to set up the demonstrations in the 5 lecture hall. He taught astronomy, at least in evening 6 classes, which are fully equivalent to daytime classes, 7 but are made available to reach a clientele of people who can't attend during the day. 8 9 Q. Right. 10 Α. He had been taking courses toward a master's degree, and as I say, I worked one on one with 11 12 him one semester when he was enrolled in that optics 13 laboratory. And, otherwise, just the fact that we were 14 in the same building, attending the same colloquia and 15 eating the same cookies and so on. 16 I'm going to show you an exhibit. Q. 17 (Exhibit No. 1 marked.) 18 Showing you what we've marked Exhibit 1, 0. 19 this appears to me to be an e-mail from Thomas Troland 20 to the members of the search committee dated 21 September 24, 2007, 7:19 p.m. Is that accurate? The members of the search committee 22 23 together with two others. And who were the others? 24 Q. 25 Α. Maybe three others. I don't remember

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whether Nancy Levenson was a member of the committee or
not; Gary Ferland was not, although he had participated
in many discussions along the way. He was at that time
out of the country. And those are the exceptions.
                    This -- I believe it's been
              Okay.
       Q.
identified by Professor Troland as a summary of one
observatory committee meeting. I think actually it
would be more accurate to call it an advisory committee
meeting. As I understand, there was a separate
observatory committee which had to do with setting up
the observatory; does that sound right?
       Α.
              Yes.
       Ο.
              And then there was the search or advisory
committee for the director. Correct?
              Correct.
       Α.
              And they weren't necessarily the same
       Q.
committee members.
       Α.
              Right.
              Ferland was -- see, I know a lot about
       Ο.
this. Ferland was on the observatory committee but then
he went on sabbatical to Cambridge?
       Α.
              Correct.
              All right. Anyway, it appears to me that
       Q.
this particular e-mail summarizes action taken by the
committee on this particular day, and there's an
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indication in this e-mail that one, two, three, four,
five, seven candidates were rated on a scale. Does that
appear what happened here?
       Α.
              Right.
              Do you remember this happening?
       Q.
       Α.
              Yes, I do.
       Q.
              All right. And they were rated for
various, I suppose, components of the job that you were
searching for. Correct?
       Α.
              Correct.
              And is it correct that Gaskell scored an 8
       Q.
on this scale? Right?
       Α.
              As far as I can recall, yes.
       Q.
              And Knauer scored a 5. Right?
       Α.
              Yes.
              Do you remember how this scale worked?
       Q.
It's not entirely clear to my nonscientific eyes.
discussed each candidate, it says, rating them in each
criteria and on a scale of zero, one or two. I guess it
is rather self-explanatory but...
              Yeah. Of course we had our own -- our own
       Α.
personal criteria for why I would give somebody a zero
or one or two, but we were all constructively
participating in the process and we figure that it'll
come out by the law of averages.
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- Q. Okay. And, of course, this rating scale or this rating procedure does not include the kind of intangible things that you've discussed about personal relationships, intradepartment relationships?
- A. It could well be influenced by those things because, for instance, well, here it says experience. I'm not sure that this e-mail describes quite how I might describe what these criteria were. It says experience in, experience with, expertise. Well, those are objective-sounding things.
 - Q. Right.

A. But I strongly suspect that each of us in making our numerical judgments were not just coldly judging experience but judging suitability with regard to these different parameters. Most of us on this committee, at least all who were faculty members, had been involved in selection of faculty and selection of staff in the past, and I as chair of the department had been involved in even more things. And so you can't just boil down to a single word experience what it is that you're judging. So this is a token, perhaps, experience with outreach programs, a token for something that represents a lot more. And it was the total judgment based on our own experience with hiring people and selecting people and judging the quality of work

```
1
    that we voted what we -- or rated what we rated.
                                                        And I
2
    would like to say that this is before we had personally
    met any of these people in interviews.
 3
                   Right. Did you participate in the on-
 4
5
    campus interview of Gaskell?
 6
           Α.
                   Yes.
7
           Q.
                   And --
                   And I went to dinner with him and had
8
9
    further evening conversation with him.
10
           Q.
                   Okay. And, I mean, I know you already
    knew Timothy Knauer, but was there a formal on-campus
11
12
    interview with Knauer?
13
                   Yes, there was.
           Α.
14
           Q.
                   And you participated in that?
15
           Α.
                   Yes.
16
                   Now, looking at this e-mail, and you kind
           Q.
17
    of brought this to my attention, gary@pa.uky.edu, that's
    Ferland, isn't it?
18
19
           Α.
                   Right.
20
                   He was not at this meeting. Correct?
           Q.
21
           Α.
                   Right.
                          And he was not, as far as I know,
22
    regular contact as to the ongoings of the committee.
23
                   So he would not have been one of the
           Q.
24
    people doing the rating here.
25
           Α.
                   No.
```

1 Q. Is that fair? 2 Α. No. 3 How about Nancy Levenson? Was she in Q. Chile at that time? 4 5 Α. I can't exactly say. 6 Q. I'm just trying to figure out who actually 7 was physically at this meeting and who actually did the 8 rating that's reflected here, since we know Ferland was 9 not. 10 Α. Ferland was not. 11 Q. Right. 12 I'm a little uncertain about Levenson. Α. 13 think she was there sometimes and was absent sometimes. 14 As you probably know, she has since taken another job in 15 the Canary Islands. 16 I didn't know that. Q. And she, unknown to me at least, was in 17 18 some preliminary negotiations at that time in addition 19 to doing research in Chile. So she was doing a lot of 20 traveling, and I think that whether she was physically 21 present in the building at the time these ratings were 22 made or communicated them by e-mail, I can't recall. 23 The other people were all really, really there. 24 Q. Okay. 25 Off the record. MR. MANION:

```
1
                       (Off-the-record comments.)
2
                   Speaking of Hoch, Dean Steven Hoch was at
           Q.
    the time the dean of the College of Arts and Sciences.
 3
 4
    Correct?
5
           Α.
                   Right.
 6
           Q.
                   Did you at any time before, during, or
7
    after the process of hiring observatory director, speak
8
    with or communicate in some way with Steven Hoch about
9
    the hiring process?
10
           Α.
                   I never spoke with him about the hiring
11
    process.
12
                  Did you ever speak with him about the
           Q.
13
    candidates for the position?
14
           Α.
                   No. I never spoke about any candidates
15
    with him.
16
                  Did you ever have any discussion with him
           Q.
17
    about Gaskell not getting hired and claiming it was
18
    because of a discriminatory reason or anything like
19
    that?
20
           Α.
                  No.
                  He left the university when? '08 at some
21
           Q.
22
    point?
23
                   Yes. At the same time that I officially
           Α.
24
    retired, he was on his way to Washington state in April,
25
    May, June of '08.
```

1 Q. Now, the provost at the time was 2 Dr. Subbaswamy? Α. Correct. 3 Did you ever have any discussions with him 4 5 about the hiring process for the observatory director 6 and/or the candidates' pros and cons? 7 Α. No discussions at all with Swamy. 8 0. He's a physicist? 9 Correct. Α. 10 Q. Was he part of the physics and astronomy 11 department at some point here? 12 He was, and he was the chair. He preceded Α. 13 me as chair. I succeeded him. 14 Q. Then he took a position in Ohio? No, he took a position at Miami University 15 Α. 16 in Miami, Florida. Okay. And then returned to Kentucky as 17 0. 18 provost? 19 By way of the University of Indiana, where Α. he had been the dean of arts and sciences. 20 21 Q. Okay. 22 Then he came to U.K. as provost. Α. 23 Q. Now, Tim Knauer took the position, 24 officially started work when? 25 I don't know, but I would say it was Α.

```
1
    January or February of '08.
2
                   Okay. And so he's been in the post about
           Q.
 3
    two years, two plus years?
 4
           Α.
                   By now, yes.
5
                   During that time are you familiar with any
           Q.
6
    outreach activities that he has initiated in that role?
7
           Α.
                  Yes, many.
8
           Ο.
                   Can you describe them?
9
                  He has sought out and given programs to
10
    and welcomed visits from scout troops, Boy Scout troops,
    Cub Scouts, Girl Scouts. He has gone to schools. He
11
12
    has gone to the Lexington Children's Museum.
13
    gone to science fairs. He has manned a booth at the
14
    engineering day at U.K. when a thousand people come and
15
    see what the opportunities are. I can't say that that's
16
    an exclusive list, but he's been very busy doing that
    kind of thing.
17
18
                       MR. MANION: I don't have any other
19
    questions.
20
                       MS. KRIZ: I don't either.
21
                       (DEPOSITION CONCLUDED 12:24.)
22
23
2.4
25
```

```
1
    STATE OF KENTUCKY
2
    COUNTY OF FAYETTE
                         )
 3
             I, ANN HUTCHISON, Registered Professional
 4
5
    Reporter and Notary Public, State of Kentucky at Large,
 6
    whose commission as such will expire May 3, 2012, do
7
    hereby certify that the foregoing deposition was taken
8
    by me at the time, place, for the purpose and with the
9
    appearances set forth herein; that the same was taken
10
    down by me in stenotype in the presence of the witness
11
    and thereafter correctly transcribed by me upon
12
    computer; and that the witness was duly placed under
13
    oath by me prior to giving testimony.
14
             I further certify that I am not related to nor
15
    employed by any of the parties to this action or their
16
    respective counsel and have no interest in this
17
    litigation.
18
             Given under my hand, this 10th day of April,
19
    2010.
20
21
22
                          ANN HUTCHISON, RPR
                          Registered Professional Reporter
23
                          Notary Public, State-at-Large
24
25
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